

REMARKS

Applicant has amended claims 1, 3, 6, 8, 16, and added new claims 21-24. These amendments are supported in the application at, for example, figures 3-4 and the corresponding text.

Double patenting

Applicant acknowledges the double patenting rejection. Applicant shall consider filing a terminal disclaimer upon indication that at least one claim is otherwise allowable.

Section 102 Claim Rejections Based on Bramlet

According to the Office Action claims 1, 3, 5-7, 9, 11 and 16-18 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,849,004 to Bramlet (hereafter referred to as "Bramlet"). Applicant respectfully disagrees.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 *citing* Verdegaal Bros. V. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987).

Claim 1 has been amended. Claim 1 now recites a claim limitation that is not disclosed in Bramlet. More specifically, claim 1 recites that at least three suture retaining apertures are axially spaced along the axis in the anchor body. Bramlet does not disclose three apertures disposed axially along the longitudinal axis.

Regarding the Section 102 rejection of claim 16 based on Bramlet, Applicant respectfully disagrees. Claim 16 explicitly recites that a length of suturing material contacts substantial portions of both of said surfaces. Also, claim 16 recites that the length of suturing material is looped over a second portion of the length of suturing material which contacts the one of said surfaces. The suturing material is a meaningful claim limitation and must be considered. This is not a mere intended use-type limitation.

Nowhere in Bramlet is it disclosed that a length of suturing material is looped over a second portion of the suturing material and contacts the side of the anchor. Although Bramlet shows a suture-like material being passed endwise through a throughbore 88, Bramlet is silent as to disclosing looping the suture against another portion of the suture and against the substantial

portions of the body of the anchor. Bramlet thus does not disclose each and every claim limitation of claim 16.

Based on the foregoing, Bramlet lacks a claim limitation of claims 1 and 16 and therefore does not anticipate Applicant's claimed invention.

The other claims rejected in the above rejection depend from claim 1, 16, or a claim depending thereon. Accordingly, withdrawal of the rejection of all claims under Section 102 based on Bramlet is requested.

Section 102 Claim Rejections Based on Li

According to the Office Action claims 1,5, 8-10, and 14-18 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,571,104 to Li (hereafter referred to as "Li").

As indicated above, claim 1 has been amended by collapsing claim 3, which was not rejected by Li, into claim 1. More specifically, claim 1 now recites that at least three suture retaining apertures are disposed axially along said axis in the anchor body. Li does not disclose three apertures disposed axially along the longitudinal axis.

Regarding the rejection of claim 16 based on Li, Applicant respectfully disagrees.

Claim 16 explicitly requires that a length of suturing material contacts substantial portions of both of said surfaces. Also, claim 16 recites that the length of suturing material is looped over a second portion of the length of suturing material which contacts the one of said surfaces. The suturing material is a meaningful claim limitation and must be considered.

Nowhere in Li is it disclosed that a length of suturing material is looped over a second portion of the suturing material and the second portion of suturing material contacts one of the sides of the anchor. Although Li shows a bore extending through the anchor, Li is silent as to looping the suture against another portion of the suture and against the substantial portions of the body of the anchor. Li thus does not disclose each and every claim limitation of claim 16.

That a suture may be capable of being manipulated to pass through both holes 26 and 30 and tied against the surfaces is not enough to anticipate the claim. The length of suturing material and its configuration are part of the Applicant's claim 16 and thus, merit consideration. This is not a mere intended use-type limitation.

Based on the foregoing, Li lacks a claim limitation of claims 1 and 16 and therefore does not anticipate Applicant's claimed invention.

The other claims rejected in the above rejection depend from claim 1, 16, or a claim depending thereon. Accordingly, withdrawal of the rejection of all claims under Section 102 based on Li is requested.

Section 103 Claim Rejections

According to the Office Action claims 12 and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,156,039 to Thal (hereafter referred to as "Thal") in view of Li. Applicant disagrees.


A proper prima facie case of obviousness under Section 103 requires, amongst other things, that the reference (or references when combined) must teach or suggest all the claim limitations. MPEP § 2142. In this instance, Thal does not teach or suggest an anchor including at least three suture retaining apertures as recited in Applicant's claim 1. For at least this reason, Thal does not teach or suggest all claim limitations found in claim 1 and the claims depending thereon.

The other references being applied under the Section 103 rejections do not make up for the shortcomings identified above in connection with Thal. Accordingly reconsideration and withdrawal of all the rejections under Section 103 is respectfully requested.

CLOSING COMMENTS

Applicant has made a sincere effort to respond to all issues raised in the Office Action. Should a fee be deemed necessary in connection with this matter the Commissioner is authorized to charge Applicant's deposit account no. 50-0359. Should the Examiner have any questions he is urged to contact Applicant at the below referenced number.

Respectfully submitted,



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Date

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